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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,037	01/31/2005	Jean-Jacques Taillardat	P/3328-70	2807
2352 7590 04/08/2010 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER FLORES SANCHEZ, OMAR				
ART UNIT 3724		PAPER NUMBER		
MAIL DATE 04/08/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/517,037

**Applicant(s)**

TAILLARDAT, JEAN-JACQUES

**Examiner**

Omar Flores-Sánchez

**Art Unit**

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to applicant's amendment received on 01/13/10.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett et al. (3,899,945) in view of Hirakawa et al. (5,297,461) and Scheffer et al. (4,962,683).

Garrett et al. discloses (Fig. 1-12) the invention including a machine 12, a machine entrance (see Fig. 3, the left side entrance), a machine exit (see Fig. 3, the right side exit), a processing zone (see Fig. 1, the center area), a sheet drive (58 and 60), a first tooling 16, a first rotary support shaft 125, a counter-tooling 18, a second rotary support shaft 101, an operating apparatus (56 and 126), the first tooling is rotating at a processing speed having a tangential component which is equal to the drive speed of the sheets (see col. 4, lines 5-8), a cylindrical surface 36 having resilient/flexible material (see col. 7, line 15) to allow the blade 34 of the first tooling to penetrate into (see col. 8, lines 15-17), a first motor 56 and a second motor 126. Garrett et al. doesn't show a plurality of working strips. However, Hirakawa et al. teaches the use of a plurality of working strips (3 and 15) for the purpose of obviating the shortcoming of breaking of the sheet at a change point. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Garrett et al. by providing the a plurality of working strips as taught by Hirakawa et al. in order to obtain a device

that obviates the shortcoming of breaking of the sheet at a change point. Hirakawa et al. teaches working strips having a width in the circumferential direction greater than a width the first tooling (see Fig. 5A) and the working strip is mounted detachably by bolts 11 on the counter-tooling and made of elastic/flexible body (see Abstract). The working strips made of elastic body (elastic body is equal to flexible material) of Hirakawa et al. are capable of allowing the blades of the first tooling to penetrate into

The modified device of Garrett et al. discloses the invention substantially as claimed except for the first tooling including blades. However, Scheffer et al. teaches the use of blades 164 for the purpose of facilitating the cutout of the material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the first tooling of Garrett et al. by providing the blades 164 as taught by Scheffer et al. in order to obtain a device that facilitates the cutout of the material. Also, Scheffer et al. teaches the at least one working strip 214 having a width in a circumferential direction greater than a width measured between the blades of the first tooling (see Fig. 9).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett et al. (3,899,945) in view of Hirakawa et al. (5,297,461) and Scheffer et al. (4,962,683) as applied to claim 1 above, and further in view of Kishine et al. (6,401,583 B1).

The modified device of Garrett et al. discloses the claimed invention except for the width of each working strip lies within the range of 1.05 to 1.8 times the width of the first tooling. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Kishine et al. by providing the width of each working strip

lies within the range of 1.05 to 1.8 times the width of the first tooling, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art. *In re Aller*, 105USPQ 233.

5. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett et al. (3,899,945) in view of Hirakawa et al. (5,297,461) and Scheffer et al. (4,962,683) as applied to claim 1 above, and further in view of Thiel et al. (6,220,134 B1).

The modified device of Garrett et al. discloses the invention substantially as claimed including first and second tools 34 (see col. 7, lines 11-13) and a control unit 127. Garrett et al. doesn't show a detector. However, Thiel et al. teaches the use of a detector 17 for the purpose of detecting the position of the web relative to the cutting device and adjusting the cutting device for cutting in the register mark. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Garrett et al. by providing the (the missing limitation) as taught by Thiel et al. in order to obtain a device that detects the position of the web relative to the cutting device and adjusts the cutting device for cutting in the register mark.

#### ***Response to Arguments***

6. Applicant's arguments have been fully considered but they are not persuasive. In response to Applicant's argument that Scheffer includes additional structure (for example, springs) not required by Applicant's invention, it must be noted that Scheffer discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

Also, Scheffer was cited regarding the blades only and not any other structures. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. F./  
Examiner, Art Unit 3724  
4/3/2010

/Boyer D. Ashley/

Supervisory Patent Examiner, Art Unit 3724